



THE FRONTLINE SUPERVISOR

The Employee Assistance Program to help you manage your most valuable resource— Employees

Call EAS: Olympia (360) 753-3260 Seattle (206) 281-6315 Spokane (509) 482-3686

Website: <http://hr.dop.wa.gov/eas.html>

■ Q. If I refer my employee to EAS for chronic absenteeism, how should I respond if she comes in late the very next day? Should I continue to wait for improvement? If so, how long?

A. Although many supervisors would report knowing exactly how they would respond to such a scenario, in practice most deliberate and feel ambivalent before deciding what to do. Your decision may require making a judgment that weighs the urgency needed for change, the expectations of management, or the attitude demonstrated by your employee toward resolving her attendance problem. Although waiting longer sends an unintended message of indifference, it is likely that any personal problem is still untreated. Be careful of your emotional reaction to your employee so you can effectively deliberate about how to respond. You may want to discuss your concerns with your Employee Assistance Professional, if you feel you are "caught in the middle" or ambivalent. Remember that it is the employee's behavior that is in question and she is personally responsible for it.

■ Q. Is it okay to ask EAS for its opinion on the impact of a proposed disciplinary action on an employee's mental state? We are concerned because of all that has happened to this employee recently, and we would not want to cause an employee to relapse, add unduly to his stress, or increase his depression.

The employee assistance program (EAP) is there to support you as supervisor or manager, as well as your employees, and may be able to assist you in effectively addressing your concerns about the possible impact on an employee. The EA Professional cannot tell you what to do, but may be helpful in addressing your concerns about handling a particular situation. If this employee has been referred to the EAP or has participated on his own, privacy would not allow you to have information shared in confidence. It is the employee's responsibility to meet the standards of the job, even with reasonable accommodation. Coordinate your actions with your HR Consultant, and consider that a referral to the Employee Advisory Service (EAS) would be an excellent idea in this situation.

■ Q. My employee was disciplined for exaggerating his workers' compensation claim. Should we also make a supervisor referral to the EAP?

A. Exaggerated claims after a legitimate work-related injury are the most common types of workers' comp fraud—far more common than filing totally fabricated claims, according to Midwestern Insurance Alliance. Although your employee has been confronted, he may have a personal problem that contributed to his filing an exaggerated claim. Between 38 and 50 percent of all workers' compensation claims involve workplace drug or alcohol abuse, according to the U.S. Department of Labor. Drug-abusing employees are five times more likely to file a compensation claim, according to the National Institute on Drug Abuse. An EAP referral may help identify an addiction problem, or some other exacerbating issue, thereby reducing the risk of a future accident. It may also reduce the likelihood of an illegitimate claim, saving the organization from significant financial loss.

■ Q. My employee wanted to see my documentation on her performance. I don't mind sharing my Work Record from EAS. However, she also wanted every personal note I've made to myself about her performance. When I refused, she got upset and angry. Was I right to withhold it?

A. First check your agency policies and bargained contracts and talk to your HR Consultant about the request. If not otherwise limited and you were keeping personal notes with the expectation that they would not be shared, then your right to privacy is well established. You might rely upon your notes later to jog your memory and construct documentation, but they have no role in official documentation. Your private notes are similar to a diary, or a journal of intimate or personal experiences. It might be appropriate to share such notes if there was some overriding concern more important than your privacy, but this does not appear to be the case. Avoiding a power struggle over the notes can be accomplished by telling your employee that the documentation you have to share represents the entirety of your concerns about her performance. You are not obligated to disclose the existence of private notes that would have no official purpose. disclose the existence of private notes that would have no official purpose.

■ Q. Can I have an employee tested for drugs or alcohol if she is impaired at work? Do I refer the person to EAS for such testing?

Any steps you consider should always be coordinated with your Human Resource Consultants and AG. The WAC addressing this issue follows:

WAC 356-46-125 Drug testing -- Limitations -- Uses. Except as required by federal or state laws or as provided in subsection (1) of this section, no agency may perform or cause to be performed a drug test of any employee or prospective employee.

(1) An agency may require a specific employee to submit to drug testing designed to identify the presence in the body of controlled substances referenced under chapter 69.50 RCW, other than drugs prescribed by a physician, if:

(a) The agency has specific, objective grounds stated in writing to believe the employee's work performance is impaired due to the presence of such substances in the body; and

(b) The employee is in a position where such impairment presents a danger to the physical safety of the employee or another; and

(c) The agency has a specific written policy authorizing such test, establishing procedures under which they may be conducted, and protecting the confidentiality of the results, provided the results may be disclosed in an action or proceeding challenging any disciplinary action arising from the incident which led to the test. The agency's proposed policy must be submitted to the affected exclusive bargaining representative or representatives and approved by the director of the department of personnel before implementation.

(2) An employee who is found to be impaired on the job due to the use of controlled substances may be subject to disciplinary action in accordance with existing laws and regulations, but the results of such drug test shall provide no independent basis for disciplinary action. However, the agency may use the results of a drug test to require an employee to successfully complete a rehabilitation plan. The rehabilitation plan terms may require the employee to pass all subsequent drug tests. In this situation, the independent use of a subsequent drug test may be the basis for disciplinary action.

(3) In the event an employee is found to have used controlled substances, the agency shall inform the employee of available assistance through the employee advisory service or other similar program.

(4) Nothing herein shall prevent an agency from conducting medical screening to monitor exposure to toxic or other unhealthy substances in the work place, provided such screenings are limited to the specific substances reasonably believed to be present.

(5) Except as expressly set forth above, nothing herein shall add to or detract from any agency authority under chapter 41.06 RCW or regulations of the board to establish job performance standards, or conditions of employment, or to base continued employment on satisfactory job performance.

NOTES:

Visit EAS on our website at:
<http://hr.dop.wa.gov/eas.html>

